

ADMINISTRATIVE PANEL DECISION

Greyson Clothiers, LLC v. Jianfei Ren
Case No. D2023-1622

1. The Parties

The Complainant is Greyson Clothiers, LLC, United States of America (“United States”), represented by Arnold & Porter Kaye Scholer LLP, United States.

The Respondent is Jianfei Ren, China.

2. The Domain Name and Registrar

The disputed domain name <golfgreyson.com> is registered with Gname.com Pte. Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 13, 2023. On April 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 17, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint in English on April 18, 2023.

On April 17, 2023, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 18, 2023, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceedings commenced on April 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2023.

The Center appointed Andrew Sim as the sole panelist in this matter on June 8, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company in the United States that sells golf-themed lifestyle apparel and other products in the country and elsewhere.

The Complainant is the owner of various trademark registrations of the GREYSON mark, including United States Trademark Registration Nos. 5591104 (registered on October 23, 2018), 5638642 (registered on December 25, 2018), 5916919 (registered on November 19, 2019), and 6901409 (registered on November 15, 2022).

The Complainant operates a website at the domain name <greysonclothiers.com>, which the Complainant uses to provide authorized information and details regarding its products, programs, and services. The Complainant has owned a United States trademark registration for the mark GREYSON since at least October 23, 2018, and has used the domain name <greysonclothiers.com> since at least 2016.

The disputed domain name was registered on November 10, 2022. According to the evidence produced by the Complainant, the Respondent maintains a website using the disputed domain name to advertise and sell purportedly GREYSON products.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the GREYSON mark owned by the Complainant. The disputed domain name wholly incorporates the GREYSON mark and the addition of the generic term "golf" to the Complainant's trademark GREYSON only reinforces the similarity between the disputed domain name and the GREYSON mark given the Complainant's business focus on golf-themed apparel and products. The use of the disputed domain name for the Respondent's website would create the false impression that the Respondent's website is a legitimate Greyson website authorized by the Complainant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant and the Complainant has not authorized the Respondent to register or use the disputed domain name or the GREYSON mark. Further, the Respondent is not commonly known by the disputed domain name or any variation thereof. The Complainant's adoption and registration of the GREYSON mark in the United States and elsewhere also precedes the Respondent's registration of the disputed domain name. Moreover, the Respondent has been using the disputed domain name to promote and sell products that compete with authentic GREYSON apparel and to create the false impression that it is authorized by the Complainant to do so. Such conduct of the Respondent fails to constitute a *bona fide* offering of goods or services, or legitimate noncommercial or fair use of the disputed domain name. Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. Given the renown of the GREYSON mark and the Respondent's use of the Greyson & wolf logo on its website, the Complainant submits that the Respondent knew the Complainant's GREYSON mark prior to the registration of the disputed domain name. The Respondent nonetheless registered the disputed domain name to take advantage of the Complainant's reputation and trademarks, constituting opportunistic bad faith. The use of the disputed domain name also creates a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's site or the non-affiliated products sold

thereon, given how the Respondent's website mimics that of the Complainant in terms of the use of graphics and imagery. This gives the wrong impression that the advertising and selling of the Respondent's products are authorized by the Complainant. The use of the disputed domain name for the promotion of the sale of products that compete with the Complainant's also suggests bad faith. Last but not least, the creation of a form of initial interest confusion by the registration and use of the disputed domain name also supports finding of bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1 Procedural Matter - Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. According to the information received from the Registrar, the language of the Registration Agreement is Chinese.

The Complainant submits that the language of the proceeding should be English. The Complainant mainly contends that the disputed domain name is in English and wholly incorporates the English word "golf" and the Complainant's GREYSON trademark; that the disputed domain name has been used by the Respondent in connection with a website containing only English content; and that the Registrar maintains a website in both English and Chinese.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

In view of the above, the Panel accepts the Complainant's submissions regarding the language of the proceeding. The Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel further notes that the Center has notified the Respondent in both Chinese and English of the language of the proceeding and the commencement of the proceeding. The Respondent chose not to comment on the language of the proceeding or respond to the Complaint in either English or Chinese. Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2 Substantive Matter – Three Elements

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which it has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the GREYSON mark.

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademarks and the disputed domain name. It is long-established that the generic Top-Level Domain ".com" may be ignored when assessing the confusing similarity between the disputed domain name and the Complainant's trademarks. Only the second-level portion of the disputed domain name is taken into consideration.

The disputed domain name incorporates the Complainant's registered GREYSON mark in its entirety. It is sufficient to establish the confusing similarity between the Complainant's trademarks and the disputed domain name. While the extra word "golf" is contained in the disputed domain name, such addition would not prevent a finding of confusing similarity between the Complainant's trademarks and the disputed domain name because the Complainant's GREYSON mark remains clearly recognizable in the disputed domain name. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.)

Given the above analysis, the Panel finds that the disputed domain name is confusingly similar to trademarks in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that it is not affiliated in any way with the Respondent, and has not authorized the Respondent to register or use the disputed domain name or its GREYSON mark. The Panel agrees with the Complainant that the Respondent, who is identified as "Jianfei Ren", does not resemble the Complainant's trademarks or the disputed domain name in any manner.

According to the Complainant, the Respondent has used the disputed domain name in connection with a website featuring the GREYSON mark and where apparently counterfeit GREYSON products have been advertised or sold. The Respondent's website also mimics the Complainant's website in terms of graphics and imagery. Based on the current record, the Panel cannot make a conclusion if the GREYSON products sold on the website at the disputed domain name are counterfeits or not. Even if the website offers to sell authentic GREYSON products, there is no accurate and prominent disclaimer on the website regarding the relationship between the Complainant and the Respondent (see [WIPO Overview 3.0](#), section 2.8). Further, the Panel agrees with the Complainant that the use of the disputed domain name by the Respondent has been designed to attract and mislead web users into believing that the Respondent has been authorized by the Complainant to promote and sell purported GREYSON apparel. Moreover, the composition of the disputed domain name, which incorporates the Complainant's trademark together with a term closely related to the Complainant's products, is inherently confusing as it effectively impersonates or suggests sponsorship or endorsement by the Complainant (see [WIPO Overview 3.0](#), section 2.5.1). Therefore, the conduct of the Respondent fails to constitute a *bona fide* offering of goods or services, or legitimate noncommercial or fair use of the disputed domain name.

The Complainant also contends that the Respondent has neither been commonly known by the disputed domain name or any variation thereof, and it has no rights or legitimate interests in the GREYSON mark or the disputed domain name. This argument is further supported by the fact that the Respondent's name is not in any way associated with the disputed domain name or any variation of the Complainant's GREYSON mark, and that the use of the GREYSON mark by the Complainant has been continuous for more than seven years.

Therefore, the Panel accepts that, on a balance of probabilities, these allegations were soundly based and the Complainant has established a *prima facie* case. The burden of production to demonstrate its rights or legitimate interests in respect of the disputed domain name shifts to the Respondent, and the Respondent failed to submit a response. The Panel concludes that the Respondent has not rebutted the Complainant's *prima facie* case, and therefore the Complaint fulfills the requirement of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel agrees with the Complainant that the Respondent was most likely aware of the Complainant's right in its GREYSON mark before or when the Respondent registered the disputed domain name. The disputed domain name was registered after the Complainant registered its GREYSON marks in the United States for a number of years. This is clear when considering the renown of the GREYSON mark, the continuous use of the mark for over seven years by the Complainant, and the fact that the disputed domain name resolves to a website featuring the Complainant's Greyson & wolf logo and which is designed in a similar way as the Complainant's website.

From the fact that the disputed domain name suggests affiliation with the Complainant, it is likely that the Respondent chose to register the confusingly similar disputed domain name in order to obtain a commercial benefit from using the disputed domain name in connection with its promotion and sales of purported GREYSON products and misleading unsuspecting Internet users into believing such disputed domain name and its associated website content are connected to the Complainant.

The Panel is therefore satisfied that the disputed domain name was registered and is being used in bad faith within the meaning of paragraphs 4(a)(iii) and 4(b)(iv) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <golfgreyson.com> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: June 22, 2023